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RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL

M E M O R A N D U M

November 17, 2026		
Approved	**Denied**	**Abstain**
DS CC DS WC DS JW		

TO: Chairman Christi Craddick
Commissioner Wayne Christian
Commissioner Jim Wright

FROM: Paul Dubois, Assistant Director
Technical Permitting, Oil & Gas Division

Betsy Peticolas, Attorney
Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: November 17, 2026

SUBJECT: Item 548; Proposed amendments to 16 TAC § 3.30, Memorandum of Understanding between the RRC and the Texas Commission on Environmental Quality (TCEQ)

Attached is Staff's recommendation to publish proposed amendments to 16 Texas Administrative Code § 3.30, Memorandum of Understanding (MOU) between RRC and Texas Commission on Environmental Quality (TCEQ).

The amendments are proposed to implement Senate Bill (SB) 1145 (89th Texas Legislature, 2025) which transferred permitting authority for the land application of produced water that is treated for beneficial use from RRC to TCEQ; SB 786 (88th Texas Legislature, 2023) which transferred jurisdiction over closed-loop geothermal injection wells from TCEQ to RRC; SB 1186 (88th Texas Legislature, 2023) which granted RRC authority over brine mining; and House Bill (H.B.) 1284 (87th Texas Legislature, 2021) which consolidated jurisdiction over onshore and offshore Class VI injection wells with RRC.

The proposed amendments would also make several changes to the MOU to enhance clarity and readability without modifying the substance, intent, or effect of the existing language.

Staff requests the Commission's approval to publish the proposed amendments in the Texas Register for public comment. If approved at conference on November 17, 2026, the proposal should appear in the December 4, 2026, issue of the Texas Register. The proposal and an online comment form would also be made available on the Commission's website, giving interested persons approximately two additional weeks to review and submit comments to the Commission.

cc: Wei Wang, Executive Director
David Lindley, Director, Oil and Gas Division

The Railroad Commission of Texas proposes amendments to §3.30, relating to Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ).

The memorandum of understanding (MOU) between the TCEQ and the RRC was last substantively amended in July 2020. Additionally, the RRC amended the version of the MOU codified at §3.30 in 2025 to update cross-references to certain RRC rules in conjunction with a separate rulemaking that proposed new and amended rules in Chapter 4.

The amendments are proposed to implement changes made by Senate Bill (SB) 1145 (89th Texas Legislature, 2025) which amended Texas Water Code (TWC), §26.131, *Duties of Railroad Commission*, to transfer permitting authority for the land application of produced water that is treated for beneficial use from RRC to TCEQ for permit applications filed on or after September 1, 2025.

This rulemaking would also implement SB 786 (88th Texas Legislature, 2023) which added TWC, §27.037, *Jurisdiction Over Closed-Loop Geothermal Injection Wells*, defining "closed-loop geothermal injection well" and transferred jurisdiction of closed-loop geothermal injection wells from TCEQ to RRC.

This rulemaking would implement SB 1186 (88th Texas Legislature, 2023) which amended TWC, §27.036 and granted RRC jurisdiction over brine mining, added a definition of "brine mining", clarified that RRC jurisdiction includes the authority to regulate both brine production wells and brine injection wells, and instructed RRC to seek delegation of EPA authority for this type of Class V injection well.

Finally, this rulemaking would implement House Bill (H.B.) 1284 (87th Texas Legislature, 2021) which consolidated the jurisdiction over onshore and offshore Class VI injection wells used for geologic sequestration and storage of carbon dioxide (CO2) solely with RRC once primacy of this permitting

program is obtained from EPA and required TCEQ to issue a letter of determination to the applicant who is pursuing a Class VI CO2 authorization from RRC.

Amendments proposed to implement SB 1145 are found in subsections (b)(1)(B)(i), (b)(1)(B)(iii), (b)(1)(B)(iv), (b)(2)(B)(i), and (d)(15).

Amendments proposed to implement SB 786 are found in subsections (b)(1)(C)(iv), (b)(2)(A)(ii)(IV), (b)(2)(B)(i), and (b)(2)(C)(iii)(I).

Amendments proposed to implement SB 1186 are found in subsections (b)(2)(C)(ii), (b)(2)(C)(iii)(II), (d)(13), and (d)(14).

Amendments proposed to implement HB 1284 are found in subsections (b)(2)(A)(ii)(V) and (b)(2)(C)(iv).

Proposed amended subsections (a)(1) and (a)(4) would update references from the Texas Department of Health to Department of State Health Services. Proposed amended subsections (a)(4) and (a)(5) would be revised to update the dates on which the agencies amended the MOU.

Proposed amended subsection (b), *General agency jurisdictions*, would implement SB 1145, SB 786, SB 1186, and HB 1284 and clarify TCEQ and RRC jurisdiction with respect to solid waste, water quality, injection wells, and air quality.

New subsection (b)(1)(B)(iv) is proposed to implement SB 1145 and clarify TCEQ jurisdiction over ponds and pits. New subsection (b)(1)(D) is proposed to clarify TCEQ jurisdiction over air emissions, air quality, and state air resources.

New subsection (b)(2)(A) is proposed to clarify the different meanings of the term “waste” with respect to RRC’s regulatory obligations. Proposed amended subsection (b)(2)(A)(ii)(I) would clarify that waste resulting from activities associated with the exploration, development, or production of oil or gas or geothermal resources is “oil and gas waste.” New subsection (b)(2)(A)(ii)(VI) is proposed to clarify that waste not regulated by RRC is regulated by TCEQ. Proposed amended subsection (b)(2)(B)(i) would

implement SB 1145 and remove the requirement for TCEQ to receive delegation of NPDES authority and clarify that TCEQ has sole authority to issue permits for discharges into surface water in the state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described in Texas Water Code, §26.131(a). Proposed amended subsection (b)(2)(B)(ii) would clarify that stormwater that comes into contact with oil and gas waste or enters areas that contain or have contained oil and gas waste (i.e. contact stormwater) is also an oil and gas waste. Proposed amended subsection (b)(2)(C)(iii) would implement SB 1186 and clarify that RRC has jurisdiction over Class V brine injection wells. Proposed amended subsection (b)(2)(C)(iv) would implement SB 1284 and clarify that RRC has sole jurisdiction over onshore and offshore injection and geologic storage of carbon dioxide.

Proposed amended subsection (d)(1) would update references to TCEQ's current Municipal Solid Waste Definitions rule reference (30 TAC § 330.155). Proposed amended subsections (d)(6)(A)(vi) and (d)(6)(B) would clarify jurisdiction over spills associated with the transportation of crude oil and natural gas, by pipeline, railcar, tank truck, barge or tanker. Proposed amended subsection (d)(7)(A)-(B) would clarify RRC jurisdiction over oil and gas waste from reclamation plants that process tank bottoms and other hydrocarbon-bearing materials. Proposed amended subsection (d)(8)(B) would clarify RRC's authority over refining activities for the prevention of waste. New proposed subsection (d)(13) is proposed to implement SB 1186 and clarify RRC's authority over brine mining for the purpose of extracting elements, minerals, mineral ions, salts or other useful substances. New subsection (d)(14) is proposed to implement SB 1186 and clarify RRC's authority over wastes associated with injection wells under the RRC's jurisdiction. New subsection (d)(15) is proposed to implement SB 1145 and clarify RRC's authority over pits used to treat, manage, or store oil and gas waste or other RRC-jurisdictional waste.

Proposed amended subsection (e), *Interagency Activities*, would be revised to clarify TCEQ and RRC jurisdiction and requirements for managing waste and landfill gas recovery wells and reuse.

Proposed amended subsection (e)(2)(C) would update the reference to TCEQ rules and clarify the requirement to obtain a special waste authorization.

Proposed amended subsection (e)(3)(A) would clarify that TCEQ is required to manage waste under the jurisdiction of RRC as a "special waste." Proposed amended subsection (e)(3)(B) would be revised to clarify that RRC-jurisdictional waste may be disposed of at a TCEQ-regulated facility without further approval, if the facility is permitted or otherwise authorized to accept that particular type of waste. In addition, proposed subsection (e)(3)(B) would add a statement clarifying that when RCRA-exempt oilfield waste is comingled with non-exempt waste and conveyed to a TCEQ-regulated facility, the mixture is generally regulated according to the more stringent classification (i.e. hazardous waste rules apply). Proposed amended subsection (e)(3)(D) would clarify the requirement that a TCEQ registered sludge transporter must be used when transporting domestic septage over roadways. Proposed amended subsection (e)(3)(G) would clarify TCEQ reporting requirements for wastes under RRC's jurisdiction that are sent to a TCEQ-regulated facility

Proposed amended subsections (e)(4)(A)-(F) would clarify jurisdiction and reporting requirements applicable to the management of nonhazardous TCEQ-regulated waste at an RRC-regulated facility. Proposed amended subsection (e)(4)(G) would clarify that treated produced water used for evaporative cooling may be received for recycling, beneficial use, or disposal at an RRC-regulated facility.

Proposed amended subsection (e)(5) would clarify notice requirements applicable to the drilling of wells in TCEQ-regulated landfills.

Proposed amended subsection (g) would clarify and update the effective date of the rule. The proposed effective date of February 15, 2027, is an estimate. The exact effective date will be specified in the adoption.

The proposed rulemaking would remove the definitive article “the” in front of EPA, RRC, and TCEQ throughout the section when they are used as proper nouns. References to statutes are also abbreviated throughout the section for ease of readability. For example, references to Texas Water Code have been shortened to “TWC”, Texas Natural Resources Code is shortened to “TNRC," and Texas Health & Safety Code is shortened to “THSC.” Similarly, references to the United State Environmental Protection Agency are proposed to be shorted to “EPA.” In addition, the proposed rulemaking would also update the terms “storm water” to “stormwater” and “land farm” to “landfarm” throughout the section for consistency with agency practice.

RRC also proposes to amend and restructure multiple subsections, including (b)(2)(C), (c)(2), (d)(6)(A), (d)(12)(A)-(B), and (e)(4) to enhance clarity and readability. These changes are intended solely to clarify the existing language and do not modify the substance, intent, or effect of the existing language.

This rulemaking proposes to amend 16 Texas Administrative Code (TAC) §3.30 to implement SB 1145, SB 786, SB 1186, and HB 1284, as described above. RRC and TCEQ collaborated on proposed changes to the current MOU and agree that both agencies intend that the MOU proposed at 16 TAC § 3.30 and the MOU at 30 TAC § 7.117 (once amended) would include the same substantive explanations of jurisdiction and requirements. However, RRC acknowledges some minor stylistic differences may occur. TCEQ is expected to conduct a rulemaking to amend the MOU codified in its rules at 30 TAC §7.117.

The current MOU describes the general jurisdiction of RRC and TCEQ regarding water quality and waste. Several statutes cover persons and activities where respective jurisdiction of RRC and TCEQ may intersect. The current MOU is a statement of how RRC and TCEQ implement the division of jurisdiction. The MOU delineates general agency jurisdictions regarding solid waste; water quality, oil and gas waste; injection wells; hazardous waste; air quality; interagency activities, and radioactive material. The RRC notes that the proposed amendments to the MOU merely clarify the respective

jurisdictions of the RRC and TCEQ and the amendments do not have a direct fiscal impact. However, the statutory changes that prompted the proposed amendments modify the authority of each agency, and the fiscal effect of these modifications is described in the following paragraphs.

Paul Dubois, Assistant Director, Technical Permitting, Oil & Gas Division, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no additional economic costs for persons required to comply with the proposed amendments. Similarly, there will be no additional economic costs, reduction in costs, or losses or increases in revenue to the state or local governments as a result of enforcing or administering the MOU.

Mr. Dubois has determined that for the first five years the proposed amendments are in effect, the primary public benefit will be a better understanding of the responsibilities of the RRC and the TCEQ, as well as compliance with applicable state law.

Mr. Dubois has determined that for each year of the first five years that the amendments are in effect, there will be no economic costs for persons required to comply as a result of adoption of the proposed amendments. The proposed amendments update the MOU between the RRC and the TCEQ, and do not impose any new requirements on the regulated industry.

The RRC has determined that the proposed amendments to §3.30 will not have an adverse economic effect on rural communities, small businesses or micro businesses. As noted above, there is no anticipated additional cost for any person required to comply with the proposed amendments. Therefore, the RRC has not prepared the economic impact statement or the regulatory flexibility analysis pursuant to Texas Government Code §2006.002.

The RRC has also determined that the proposed amendments will not affect a local economy. Therefore, the RRC has not prepared a local employment impact statement pursuant to Texas Government Code §2001.022.

The RRC has determined that the amendments do not meet the statutory definition of a major environmental rule as set forth in Texas Government Code, §2001.0225(a); therefore, a regulatory analysis conducted pursuant to that section is not required.

During the first five years that the rules would be in effect, the proposed amendments would not: create or eliminate a government program; require the creation of new employee positions or eliminate existing employee positions; require an increase or decrease in future legislative appropriations; create a new regulation; expand, limit, or repeal an existing regulation; increase or decrease the number of individuals subject to the rule's applicability; or affect the state's economy. As noted above, the proposed amendments to the MOU merely clarify the respective jurisdictions of the RRC and TCEQ and the amendments do not have a direct fiscal impact.

The RRC reviewed the proposed amendments and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(4), nor will they affect any action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(3). Therefore, the proposed amendments are not subject to the Texas Coastal Management Program. Written comments on the consistency of this rulemaking with CMP goals may be submitted according the comment procedure addressed below.

Comments on the proposed amendments may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings; or by electronic mail to rulescoordinator@rrc.texas.gov. The RRC will accept comments until 5:00 pm on Monday, January 4, 2027. The RRC finds that this comment period is reasonable because the proposal implements required statutory changes, proposes other non-substantive changes, and the proposal and an online comment form will be available on the RRC's website more than two weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to review, analyze, draft, and submit comments. The

RRC cannot guarantee that comments submitted after the deadline will be considered. For further information, call Mr. Dubois at (512) 463-6778. The status of RRC rulemakings in progress is available at www.rrc.texas.gov/general-counsel/rules/proposed-rules. Once received, all comments are posted on the RRC's website at https://rrc.texas.gov/general-counsel/rules/proposed-rules/. If you submit a comment and do not see the comment posted at this link within three business days of submittal, please call the Office of General Counsel at 512-463-7149. The RRC has safeguards to prevent emailed comments from getting lost; however, your operating system's or email server's settings may delay or prevent receipt.

The RRC proposes the amendments to 16 TAC §3.30 under Texas Water Code §26.131, as amended by SB 1145 which transferred the responsibilities relating to regulation of the land application of produced water that is treated for beneficial use from the RRC to the TCEQ; (2) Texas Water Code Chapter 27, which authorizes the RRC to adopt and enforce rules relating to injection wells and specifically, Texas Water Code §27.036, as amended by SB 1186 which granted RRC jurisdiction over brine mining and §27.037, as amended by SB 786, which transferred jurisdiction of closed-loop geothermal injection wells from TCEQ to RRC; Texas Natural Resources Code, §81.052, which authorizes the RRC to adopt all necessary rules for governing persons and their operations under the jurisdiction of the RRC; Texas Natural Resources Code, §85.201, which authorizes the RRC to make and enforce rules for the conservation of oil and gas and prevention of waste of oil and gas; Texas Natural Resources Code, §91.101, which authorizes the RRC to adopt rules relating to the various oilfield operations, including the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste; and Texas Natural Resources Code §91.602, which authorizes the Commission to adopt and enforce rules relating to the generation, transportation, treatment, storage, and disposal of oil and gas hazardous waste.

Statutory authority: Water Code §§26.131 and 27.026, 27.036, 27.037 and Natural Resources Code §§81.052, 85.201, 91.101. and 91.601.

Cross reference to statute: Water Code Chapters 26 and 27; Natural Resources Code Chapters 81, 85, and 91.

§3.30. Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ).

(a) Need for agreement. Several statutes cover persons and activities where the respective jurisdictions of [~~the~~] RRC and [~~the~~] TCEQ may intersect. This rule is a statement of how the agencies implement the division of jurisdiction.

(1) Section 10 of House Bill 1407, 67th Legislature, 1981, which appeared as a footnote to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, provides as follows: On or before January 1, 1982, the Texas Department of Water Resources, the Texas Department of Health[~~,~~] (now the Department of State Health Services), and the Railroad Commission of Texas shall execute a memorandum of understanding that specifies in detail these agencies' interpretation of the division of jurisdiction among the agencies over waste materials that result from or are related to activities associated with the exploration for and the development, production, and refining of oil or gas. The agencies shall amend the memorandum of understanding at any time that the agencies find it to be necessary.

(2) Texas Health and Safety Code (THSC), §401.414, relating to Memoranda of Understanding, requires the Railroad Commission of Texas and the Texas Commission on Environmental Quality to adopt a memorandum of understanding (MOU) defining the agencies' respective duties under THSC [~~Texas Health and Safety Code~~], Chapter 401, relating to radioactive materials and other sources of radiation. THSC [~~Texas Health and Safety Code~~], §401.415, relating to oil and gas naturally occurring radioactive material (NORM) waste, provides that the Railroad Commission of Texas shall issue rules on the management of oil and gas NORM waste, and in so doing, shall consult with the Texas Natural

Resource Conservation Commission (now TCEQ) and the Department of Health (now Department of State Health Services) regarding protection of the public health and the environment.

(3) Texas Water Code (TWC), Chapters 26 and 27, provide that RRC [~~the Railroad Commission~~] and TCEQ collaborate on matters related to discharges, surface water quality, groundwater protection, underground injection control and geologic storage of carbon dioxide. TWC [~~Texas Water Code~~], §27.049[~~,~~] (relating to Memorandum of Understanding), requires [~~the~~] RRC and TCEQ to adopt a new MOU or amend the existing MOU to reflect the agencies' respective duties under TWC [~~Texas Water Code~~], Chapter 27, Subchapter C-1 (relating to Geologic Storage and Associated Injection of Anthropogenic Carbon Dioxide).

(4) The original MOU between the agencies adopted pursuant to HB 1407 (67th Legislature, 1981) became effective January 1, 1982. The MOU was revised effective December 1, 1987, May 31, 1998, August 30, 2010, and again on May 1, 2012, to reflect legislative clarification of the Railroad Commission's jurisdiction over oil and gas wastes and the Texas Natural Resource Conservation Commission's (the combination of the Texas Water Commission, the Texas Air Control Board, and portions of the Texas Department of Health (now Department of State Health Services)) jurisdiction over industrial and hazardous wastes. RRC and TCEQ amended the MOU effective July 15, 2020, to further clarify jurisdictional boundaries and to reflect legislative changes in agency responsibility.

(5) The agencies have determined that the revised MOU that became effective on July 15, 2020 [~~May 1, 2012~~], should again be revised to further clarify jurisdictional boundaries and to reflect additional legislative changes in agency responsibility.

(b) General agency jurisdictions.

(1) Texas Commission on Environmental Quality (TCEQ) (the successor agency to the Texas Natural Resource Conservation Commission).

(A) Waste. [~~Solid waste. Under Texas Health and Safety Code, Chapter 361, §§361.001 - 361.754, the TCEQ has jurisdiction over solid waste. The TCEQ's jurisdiction encompasses hazardous and nonhazardous, industrial and municipal, solid wastes.~~]

(i) Solid waste. Under THSC [~~Texas Health and Safety Code (THSC)~~], Chapter 361, §§361.001 – 361.992[~~361.754~~] (Solid Waste Disposal Act), [~~the~~] TCEQ has jurisdiction over solid waste. [~~The~~] TCEQ's jurisdiction encompasses hazardous and nonhazardous municipal and industrial solid waste under the Texas Solid Waste Disposal Act and radioactive substances, wastes, and materials under THSC, Chapter 401, except for disposal of oil and gas naturally occurring radioactive material (NORM) waste which is under RRC's jurisdiction [~~, industrial and municipal, solid wastes~~].

(I) Under THSC, §361.003(34), solid waste under the jurisdiction of TCEQ is defined to include "garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities."

(II) Under THSC, §361.003(34), the definition of solid waste excludes waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by RRC under Texas Natural Resources Code (TNRC), §91.101.

(ii) Hazardous waste. TCEQ has jurisdiction over hazardous waste, as defined in subsection (c) of this section, including hazardous municipal waste, hazardous industrial waste, and the hazardous waste components of radioactive waste in accordance with THSC, §§361.017 and 361.018. TCEQ is authorized by the U.S. Environmental Protection Agency (EPA) to administer Texas' approved hazardous waste program in accordance with Title 40 Code of Federal Regulations (CFR) §272.2201. [~~Under Texas Health and Safety Code, §361.003(34), the definition of solid waste excludes~~

~~"material which results from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas pursuant to Section 91.101, Natural Resources Code. . . ."~~]

(I) The THSC, TWC, and TNRC each include provisions that anticipate RRC will seek and obtain Resource Conservation and Recovery Act, 42 United States Code (U.S.C.) §6901, et seq., (RCRA) hazardous waste authorization to adopt and enforce rules from EPA (see THSC, §361.003(34) and (35), TWC, §26.131, and TNRC, §91.101). These provisions specify that certain oil and gas wastes that are hazardous wastes are under TCEQ's jurisdiction until RRC receives RCRA hazardous authorization from EPA. Specifically, this delegation of RCRA authority will affect whether certain wastes from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants are defined as hazardous wastes. The term natural gas or natural gas liquids processing plant refers to a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids. The term does not include a separately located natural gas treating plant for which the primary function is the removal of carbon dioxide, hydrogen sulfide, or other impurities from the natural gas stream. A separator, dehydration unit, heater treater, sweetening unit, compressor, or similar equipment is considered a part of a natural gas or natural gas liquids processing plant only if it is located at a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids. Further, a pressure maintenance or repressurizing plant is a plant for processing natural gas for reinjection (for reservoir pressure maintenance or repressurization) in a natural gas recycling project. A compressor station along a natural gas pipeline system or a pump station along a crude oil pipeline system is not a pressure maintenance or repressurizing plant.

(II) Under THSC, §361.003(34), until EPA delegates RCRA authority to RRC, the definition of solid waste includes hazardous waste, as defined by the administrator

of EPA, resulting from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants. Therefore, these hazardous wastes are under the jurisdiction of TCEQ.

(iii) Under THSC, §361.003(35), after delegation of RCRA authority to RRC, the definition of solid waste will not include hazardous waste arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, or pressure maintenance or repressurizing plants. After delegation of RCRA hazardous waste authority to RRC, these oil and gas hazardous wastes will no longer be solid wastes as defined in THSC, §361.003(34) under TCEQ's jurisdiction and would be considered RCRA hazardous waste under RRC jurisdiction. [~~Under Texas Health and Safety Code, §361.003(34), the definition of solid waste includes the following until the United States Environmental Protection Agency (EPA) delegates its authority under the Resource Conservation and Recovery Act, 42 United States Code (U.S.C.) §6901, et seq., (RCRA) to the RRC: "waste, substance or material that results from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is a hazardous waste as defined by the administrator of the EPA. . . ."~~]

(iv) After delegation of RCRA authority to the RRC, the definition of solid waste (which defines TCEQ's jurisdiction) will not include hazardous wastes arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, or reservoir pressure maintenance or repressurizing plants. The term natural gas or natural gas liquids processing plant refers to a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids. The term does not include a separately located natural gas treating plant for which the primary function is the removal of carbon dioxide, hydrogen sulfide, or other impurities from the natural gas stream. A separator, dehydration unit, heater treater, sweetening unit, compressor, or similar equipment is considered a part of a natural gas or natural gas

liquids processing plant only if it is located at a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids. Further, a pressure maintenance or repressurizing plant is a plant for processing natural gas for reinjection (for reservoir pressure maintenance or repressurization) in a natural gas recycling project. A compressor station along a natural gas pipeline system or a pump station along a crude oil pipeline system is not a pressure maintenance or repressurizing plant.

(B) Water quality.

(i) Discharges under TWC [~~Texas Water Code~~], Chapter 26. Under the TWC [~~Texas Water Code~~], Chapter 26, [~~the~~] TCEQ has jurisdiction over discharges into or adjacent to water in the state[~~, except for discharges regulated by the RRC~~]. On January 15, 2021, EPA [~~Upon delegation from the United States Environmental Protection Agency to the TCEQ of~~] delegated authority to issue permits for discharges into surface water in the state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described in TWC [~~Texas Water Code~~], §26.131(a), to TCEQ. [~~the~~] TCEQ has sole authority to issue permits for those discharges into surface water in the state. After September 1, 2025, TCEQ has sole authority to issue permits for discharges adjacent to surface water in the state (i.e., land application) of produced water that has been treated for beneficial use. For the purposes of TCEQ's implementation of TWC [~~Texas Water Code~~], §26.131, the phrase "produced water, hydrostatic test water, and gas plant effluent resulting from the activities described in TWC, §26.131(a)" is defined as all wastewater associated with oil and gas exploration, development, and production activities, [~~except hydrostatic test water and gas plant effluent, that is discharged into water in the state,~~] including waste streams regulated by 40 CFR Part 435. For the purposes of implementing TWC, §26.131 “produced water” is limited to water (brine) brought up from the hydrocarbon-bearing strata during the extraction of oil or gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

(ii) Discharges into surface water in the state. [~~Discharge permits existing on the effective date of EPA's delegation to TCEQ of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent. RRC permits issued prior to TCEQ delegation of NPDES authority shall remain effective until revoked or expired. Amendment or renewal of such permits on or after the effective date of delegation shall be pursuant to TCEQ's TPDES authority. The TPDES permit will supersede and replace the RRC permit. For facilities that have both an RRC permit and an EPA permit, TCEQ will issue the TPDES permit upon amendment or renewal of the RRC or EPA permit, whichever occurs first.~~]

(I) Discharge permits existing on the effective date of EPA's delegation to TCEQ of National Pollutant Discharge Elimination System (NPDES) permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent. RRC discharge permits issued prior to TCEQ delegation of NPDES authority shall remain effective until revoked or expired. Amendment or renewal of such permits on or after the effective date of delegation shall be pursuant to TCEQ's TPDES authority. The TPDES permit will supersede and replace the RRC discharge permit. For facilities that have both an RRC discharge permit and an EPA discharge permit, TCEQ will issue the TPDES permit upon amendment or renewal of the RRC or EPA discharge permit, whichever occurs first.

(II) Discharge applications pending on the effective date of EPA's delegation to TCEQ of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent. TCEQ shall assume authority for discharge applications pending at the time TCEQ receives delegation from EPA. RRC will provide TCEQ the permit application and any other relevant information necessary to administratively and technically review and process the applications. TCEQ will review and process these pending applications in accordance with TPDES requirements.

(iii) Discharges adjacent to surface water in the state (i.e., land application permits). [~~Discharge applications pending on the effective date of EPA's delegation to TCEQ~~

~~of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent. TCEQ shall assume authority for discharge applications pending at the time TCEQ receives delegation from EPA. The RRC will provide TCEQ the permit application and any other relevant information necessary to administratively and technically review and process the applications. TCEQ will review and process these pending applications in accordance with TPDES requirements.~~]

(I) Applications filed prior to September 1, 2025. An application for a permit to authorize land application of produced water that is treated for beneficial use filed prior to September 1, 2025, and any subsequent issued permit, shall remain with RRC and effective until revoked or expired. An application to amend or renew a permit that authorizes land application of produced water that is treated for beneficial use filed on or after September 1, 2025, shall be issued pursuant to TCEQ's authority to issue Texas Land Application Permits (TLAP). The TLAP permit will supersede and replace the RRC permit.

(II) Applications filed on or after September 1, 2025. TCEQ shall assume permit authority for applications to obtain a new permit or to amend or renew an existing permit that authorizes land application of produced water treated for beneficial use. Applicants will provide the permit application to TCEQ as well as any other relevant information necessary to administratively and technically review and process the applications filed on or after September 1, 2025. TCEQ will review and process these pending applications in accordance with TLAP requirements.

(iv) Ponds and pits. TCEQ has jurisdiction over ponds that are used to manage or dispose of wastewater prior to discharge into or adjacent to surface water in the state, except those pits authorized by RRC, pursuant to subsection (d)(15) of this section. TCEQ has jurisdiction over discharges from ponds used for the management of wastewater, including wastewater from a pit authorized under an RRC pit permit, at the point of discharge into a surface water in the state or

withdrawal for land application. Compliance with a TCEQ-issued permit may be demonstrated at a compliance point (i.e., pit) within RRC jurisdiction.

(v) Stormwater. TCEQ has jurisdiction over stormwater discharges that are required to be permitted pursuant to 40 CFR §122.26. Discharge of stormwater regulated by TCEQ may be authorized by an individual Texas Pollutant Discharge Elimination System (TPDES) permit or by a general TPDES permit, as applicable. TCEQ stormwater permits may also include authorizations for the following:

(I) allowable non-stormwater discharges, as defined under the TPDES Multi-Sector General Permit No. TXR050000;

(II) discharges of stormwater associated with industrial activities as required by 40 CFR §122.26;

(III) discharges of stormwater associated with construction activities and construction support activities as required by 40 CFR §122.26, except for discharges exempt under Clean Water Act, §402(l)(2); and

(IV) discharges from a regulated municipal separate storm sewer system (MS4) as required by 40 CFR §122.26.

[~~(iv) Storm water. TCEQ has jurisdiction over stormwater discharges that are required to be permitted pursuant to Title 40 Code of Federal Regulations (CFR) Part 122.26, except for discharges regulated by the RRC. Discharge of storm water regulated by TCEQ may be authorized by an individual Texas Pollutant Discharge Elimination System (TPDES) permit or by a general TPDES permit. These storm water permits may also include authorizations for certain minor types of non-storm water discharges.~~

~~(I) Storm water associated with industrial activities. The TCEQ regulates storm water discharges associated with certain industrial activities under individual TPDES~~

~~permits and under the TPDES Multi-Sector General Permit, except for discharges associated with industrial activities under the jurisdiction of the RRC.~~

~~(II) Storm water associated with construction activities. The TCEQ regulates storm water discharges associated with construction activities , except for discharges from construction activities under the jurisdiction of the RRC.~~

~~(III) Municipal storm water discharges. The TCEQ has jurisdiction over discharges from regulated municipal storm sewer systems (MS4s).~~

~~(IV) Combined storm water. Except with regard to storage of oil, when a portion of a site is regulated by the TCEQ, and a portion of a site is regulated by [the] EPA and RRC, storm water authorization must be obtained from [the] TCEQ for the portion(s) of the site regulated by the TCEQ, and from the EPA and the RRC, as applicable, for the RRC regulated portion(s) of the site. Discharge of storm water from a facility that stores both refined products intended for off-site use and crude oil in aboveground tanks is regulated by the TCEQ.]~~

(vi) [~~(v)~~] State water quality certification. Under the Clean Water Act (CWA) Section 401 (33 U.S.C. Section 1341), [~~the~~] TCEQ performs state water quality certifications for activities that require a federal license or permit and that may result in a discharge to waters of the United States, except for those activities regulated by [~~the~~] RRC.

(vii) [~~(vi)~~] Commercial brine extraction and evaporation. Under TWC [~~Texas Water Code~~], §26.132, [~~the~~] TCEQ has jurisdiction over evaporation pits operated for the commercial production of brine water, minerals, salts, or other substances that naturally occur in groundwater and that are not regulated by [~~the~~] RRC.

(C) Injection wells. Under the TWC [~~Texas Water Code~~], Chapter 27, [~~the~~] TCEQ has jurisdiction to regulate and authorize the drilling, construction, operation, and closure of

injection wells unless the activity is subject to the jurisdiction of [~~the~~] RRC. Injection wells under TCEQ's jurisdiction are identified in 30 TAC §331.11 (relating to Classification of Injection Wells) and include:

(i) Class I injection wells for the disposal of hazardous, radioactive, industrial or municipal waste that inject fluids below the lower-most formation which within 1/4 mile of the wellbore contains an underground source of drinking water;

(ii) Class III injection wells for the extraction of minerals including solution mining of sodium sulfate, sulfur, potash, phosphate, copper, uranium and the mining of sulfur by the Frasch process;

(iii) Class IV injection wells for the disposal of hazardous or radioactive waste which inject fluids into or above formations that contain an underground source of drinking water; and

(iv) Class V injection wells that are not under the jurisdiction of [~~the~~] RRC, for example [~~such as~~] aquifer remediation wells, aquifer recharge wells, aquifer storage and recovery wells, large capacity septic systems, stormwater [~~storm water~~] drainage wells, salt water intrusion barrier wells, and open-loop [~~closed loop~~] geothermal wells in which fluid is not contained in the geothermal system.

(D) Air. Under the Texas Clean Air Act (THSC, Chapter 382), TCEQ has jurisdiction over permitting of air emissions, monitoring air quality, and managing air resources to safeguard the state's air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and the maintenance of adequate visibility.

(2) Railroad Commission of Texas (RRC).

(A) Waste. The term "waste" has two distinct meanings for RRC's regulatory obligations. First, "waste" refers to RRC's statutory obligation to prevent the waste of natural resources.

Second, the term “waste” is used in relation to RRC’s regulation of the generation, management, and disposition of oil and gas wastes, as defined by TNRC §91.1011, and other wastes generated under RRC’s jurisdiction. [~~Oil and gas waste.~~]

(i) Waste of natural resources. TNRC, §85.045 states, “Waste illegal and prohibited. The production, storage, or transportation of oil or gas in a manner, in an amount, or under conditions that constitute waste is unlawful and is prohibited.” TNRC, §85.046 defines “waste” to include a variety of activities and conditions that may result in harm to the ultimate economic production of oil and gas. Further, the TNRC authorizes RRC to regulate the production of oil and gas for the express purpose of preventing the waste of natural resources. As the state’s primary regulator of energy resource production, RRC has jurisdiction under the TNRC over flaring and venting operations at the wellhead with respect to prevention of waste of natural resources. TCEQ has jurisdiction under the THSC to regulate air emissions from flaring and venting operations for aboveground air emitting equipment at production and processing sites, excluding well tests as defined in THSC §382.003(13). [~~Under Texas Natural Resources Code, Title 3, and Texas Water Code, Chapter 26, wastes (both hazardous and nonhazardous) resulting from activities associated with the exploration, development, or production of oil or gas or geothermal resources, including storage, handling, reclamation, gathering, transportation, or distribution of crude oil or natural gas by pipeline, prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel, are under the jurisdiction of the RRC, except as noted in clause (ii) of this subparagraph. These wastes are termed "oil and gas wastes." In compliance with Texas Health and Safety Code, §361.025 (relating to exempt activities), a list of activities that generate wastes that are subject to the jurisdiction of the RRC is found in §4.110 of this title (relating to Definitions) and at 30 TAC §335.1 (relating to Definitions), which contains a definition of "activities associated with the exploration, development, and production of oil or gas or geothermal resources." Under Texas Health and Safety Code, §401.415, the RRC has jurisdiction over the disposal of~~

~~oil and gas naturally occurring radioactive material (NORM) waste that constitutes, is contained in, or has contaminated oil and gas waste.~~]

(ii) Waste subject to RRC's jurisdiction. [~~Hazardous wastes arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TCEQ until the RRC is authorized by EPA to administer RCRA. When the RRC is authorized by EPA to administer RCRA, jurisdiction over such hazardous wastes will transfer from the TCEQ to the RRC.~~]

(I) Oil and gas waste. Under TNRC, Title 3, and TWC, Chapter 26, wastes (both hazardous and nonhazardous) resulting from activities associated with the exploration, development, or production of oil or gas or geothermal resources, including storage, handling, reclamation, gathering, transportation, or distribution of crude oil or natural gas by pipeline, prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel, are under the jurisdiction of RRC, except as noted in subclause (II) of this clause. These wastes are termed "oil and gas wastes" which are defined in TNRC, §91.1011. In compliance with THSC, §361.025 (relating to exempt activities), a list of activities that generate wastes that are subject to the jurisdiction of RRC is found in §4.110(7) (relating to Definitions) and at 30 TAC §335.1 (relating to Definitions), which contain a definition of "activities associated with the exploration, development, and production of oil or gas or geothermal resources." Under THSC, §401.415, RRC has sole jurisdiction over the disposal of oil and gas naturally occurring radioactive material (NORM) waste.

(II) Hazardous wastes arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants or pressure maintenance or repressurizing plants, are subject to the jurisdiction of TCEQ until RRC is authorized by EPA to administer RCRA. When RRC is authorized by EPA to administer RCRA, jurisdiction over such hazardous wastes will transfer from TCEQ to RRC.

(III) Wastes arising out of or incidental to activities associated with underground injection activities in RRC's jurisdiction in Chapter 27 of the Water Code are under the jurisdiction of RRC.

(IV) Wastes arising out of or incidental to activities associated with RRC's jurisdiction in TNRC, Title 5, relating to geothermal energy and associated resources are under the jurisdiction of RRC.

(V) Wastes arising out of or incidental to activities associated with RRC's jurisdiction in THSC, Chapter 382, Subchapter K, relating to the offshore geologic storage of carbon dioxide are under the jurisdiction of RRC.

(VI) Waste not regulated by RRC is regulated by TCEQ.

(B) Water quality.

(i) Discharges. The RRC does not regulate discharges into waters in the state; that authority is delegated to TCEQ. [~~Under Texas Natural Resources Code, Title 3, and Texas Water Code, Chapter 26, the RRC regulates discharges from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including transportation of crude oil and natural gas by pipeline, and from solution brine mining activities, except that on delegation to the TCEQ of NPDES authority for discharges into surface water in the state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described in Texas Water Code, §26.131(a), the TCEQ has sole authority to issue permits for those discharges. Discharges regulated by the RRC into or adjacent to water in the state shall not cause a violation of the water quality standards. While water quality standards are established by the TCEQ, the RRC has the responsibility for enforcing any violation of such standards resulting from activities regulated by the RRC. Texas Water Code, Chapter 26, does not require that discharges regulated by the RRC comply with regulations of the TCEQ that are not water~~

~~quality standards. The TCEQ and the RRC may consult as necessary regarding application and interpretation of Texas Surface Water Quality Standards.~~]

(ii) As stated in paragraph (1)(B)(iv) of this subsection, TCEQ has jurisdiction over stormwater discharges that are required to be permitted pursuant to 40 CFR §122.26. However, RRC considers stormwater that comes into contact with oil and gas waste or enters areas that contain or have contained oil and gas waste to be an oil and gas waste. Oil and gas waste must be managed pursuant the requirements of 16 TAC Chapters 3 and 4, which may include disposal in a Class II injection well. Stormwater that is associated with oil and gas activities but that does not come into contact with oil and gas waste may be discharged into water in the state under the jurisdiction of TCEQ in accordance with CWA, §402(l)(2).

[~~(ii) Storm water. When required by federal law, authorization for storm water discharges that are under the jurisdiction of [the] RRC must be obtained through application for a National Pollutant Discharge Elimination System (NPDES) permit with the EPA and authorization from the RRC, as applicable.~~]

[~~(I) Storm water associated with industrial activities. Where required by federal law, discharges of storm water associated with facilities and activities under the RRC's jurisdiction must be authorized by the EPA and the RRC, as applicable. Under 33 U.S.C. §1342(l)(2) and §1362(24), EPA cannot require a permit for discharges of storm water from "field activities or operations associated with {oil and gas} exploration, production, processing, or treatment operations, or transmission facilities" unless the discharge is contaminated by contact with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the facility. Under 16 TAC §3.8 (relating to Water Protection), the RRC prohibits operators from causing or allowing pollution of surface or subsurface water. Operators are encouraged to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants,~~

~~including sediment, in storm water to help ensure protection of surface water quality during storm events.~~]

[~~(II) Storm water associated with construction activities. Where required by federal law, discharges of storm water associated with construction activities under the RRC's jurisdiction must be authorized by the EPA and the RRC, as applicable. Activities under RRC jurisdiction include construction of a facility that, when completed, would be associated with the exploration, development, or production of oil or gas or geothermal resources, such as a well site; treatment or storage facility; underground hydrocarbon or natural gas storage facility; reclamation plant; gas processing facility; compressor station; terminal facility where crude oil is stored prior to refining and at which refined products are stored solely for use at the facility; a carbon dioxide geologic storage facility under the jurisdiction of [the] RRC; and a gathering, transmission, or distribution pipeline that will transport crude oil or natural gas, including natural gas liquids, prior to refining of such oil or the use of the natural gas in any manufacturing process or as a residential or industrial fuel. The RRC also has jurisdiction over storm water from land disturbance associated with a site survey that is conducted prior to construction of a facility that would be regulated by the RRC. Under 33 U.S.C. §1342(l)(2) and §1362(24), EPA cannot require a permit for discharges of storm water from "field activities or operations associated with {oil and gas} exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities" unless the discharge is contaminated by contact with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the facility. Under 16 TAC §3.8 (relating to Water Protection), the RRC prohibits operators from causing or allowing pollution of surface or subsurface water. Operators are encouraged to implement and maintain BMPs to

~~minimize discharges of pollutants, including sediment, in storm water during construction activities to help ensure protection of surface water quality during storm events.~~]

[~~(III) Municipal storm water discharges. Storm water discharges from facilities regulated by the RRC located within an MS4 are not regulated by the TCEQ. However, a municipality may regulate storm water discharges from RRC sites into their MS4.~~]

[~~(IV) Combined storm water. Except with regard to storage of oil, when a portion of a site is regulated by the RRC and the EPA, and a portion of a site is regulated by the TCEQ, storm water authorization must be obtained from the EPA and the RRC, as applicable, for the portion(s) of the site under RRC jurisdiction and from the TCEQ for the TCEQ regulated portion(s) of the site. Discharge of storm water from a terminal facility where crude oil is stored prior to refining and at which refined products are stored solely for use at the facility is under the jurisdiction of the RRC.~~]

(iii) State water quality certification. [~~The~~] RRC performs state water quality certifications, as authorized by the Clean Water Act (CWA) Section 401 (33 U.S.C. Section 1341) for activities that require a federal license or permit and that may result in any discharge to waters of the United States for those activities regulated by [~~the~~] RRC.

(C) Injection wells. [~~The~~] RRC has jurisdiction over the drilling, construction, operation, and closure of the following injection wells.

(i) Class II injection wells associated with oil and gas production.

(I) Disposal wells. Under TWC, Chapter 27, [~~The~~] RRC has jurisdiction [~~under TWC, Chapter 27,~~] over injection wells used to dispose of oil and gas waste. TWC [~~Texas Water Code~~], Chapter 27, defines "oil and gas waste" to mean "waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources, waste arising out of or incidental to the underground storage of hydrocarbons other than storage in artificial tanks or containers, or waste arising out of or incidental to the operation of gasoline plants, natural gas processing plants, or pressure

maintenance or repressurizing plants. The term includes but is not limited to salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste material." The term "waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources" includes waste associated with transportation of crude oil or natural gas by pipeline pursuant to TNRC [~~Texas Natural Resources Code~~], §91.101.

(II) [~~(ii)~~] Enhanced recovery injection wells. [~~The~~] RRC has jurisdiction over wells into which fluids are injected for enhanced recovery of oil or natural gas.

(III) Hydrocarbon storage injection wells. RRC has jurisdiction over wells into which fluids are injected for the storage of hydrocarbons that are liquid at standard temperature and pressure.

(ii) Class III solution brine [~~(iii) Brine~~] mining injection wells. Under TWC [~~Texas Water Code~~], §27.036, [~~the~~] RRC has jurisdiction over dissolution brine mining of subsurface salt formations and may issue permits for injection wells.

(iii) Class V injection wells for non-hazardous fluid injection.

(I) Geothermal energy injection wells. Under TNRC, Chapter 141, RRC has jurisdiction over injection wells for the exploration, development, and production of geothermal energy and associated resources.

(II) Spent brine return injection wells. Under TWC, §27.036, RRC has jurisdiction for the injection of spent, naturally occurring brine produced by a brine mining operation into the same formation from which it was withdrawn after extraction of elements, salts, or other useful substances, including halogens or halogen salts.

(III) In-situ recovery of tar sands injection wells. Under TWC, §27.035, RRC has jurisdiction over the in-situ recovery of tar sands and may issue permits for injection wells used for the in-situ recovery of tar sands.

(iv) Class VI geologic [~~Geologic~~] storage of carbon dioxide injection wells. Under TWC, [~~Texas Water Code, §27.011 and~~] §27.041, [~~and subject to the review of the legislature based on the recommendations made in the preliminary report described by Section 10, Senate Bill No. 1387, Acts of the 81st Legislature, Regular Session (2009), the~~] RRC has jurisdiction over onshore and offshore injection and geologic storage of carbon dioxide [~~in, and the injection of carbon dioxide into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir and over a well used for such injection purposes regardless of whether the well was initially completed for that purpose or what initially completed for another purpose and converted~~]. Under TWC, §27.0461, a person applying to the RRC for a permit shall submit with the application a letter of determination from TCEQ concluding that drilling and operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted by TCEQ.

[~~(v) Hydrocarbon storage. The RRC has jurisdiction over wells into which fluids are injected for storage of hydrocarbons that are liquid at standard temperature and pressure.~~

[~~(vi) Geothermal energy. Under Texas Natural Resources Code, Chapter 141, the RRC has jurisdiction over injection wells for the exploration, development, and production of geothermal energy and associated resources.~~]

~~(vii) In situ tar sands. Under Texas Water Code, §27.035, the RRC has jurisdiction over the in situ recovery of tar sands and may issue permits for injection wells used for the in situ recovery of tar sands.~~]

(c) Definition of hazardous waste.

(1) Under the THSC [~~Texas Health and Safety Code~~], §361.003(12), a "hazardous waste" subject to the jurisdiction of [~~the~~] TCEQ is defined as "solid waste identified or listed as a hazardous

waste by the administrator of EPA[~~the United States Environmental Protection Agency~~] under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 [~~, as amended~~] (42 U.S.C. §6901, et seq.)." Similarly, under TNRC [~~Texas Natural Resources Code~~], §91.601(1), "oil and gas hazardous waste" subject to the jurisdiction of the RRC is defined as an "oil and gas waste that is a hazardous waste as defined by the administrator of EPA[~~the United States Environmental Protection Agency~~] under the federal Solid Waste Disposal Act, as amended by RCRA [~~the Resource Conservation and Recovery Act of 1976~~] (42 U.S.C. §§6901, et seq.)."

(2) Federal regulations adopted under authority of the federal Solid Waste Disposal Act, as amended by RCRA, exempt certain oil and gas wastes from regulation as hazardous waste [~~exempt from regulation as hazardous waste certain oil and gas wastes~~]. Under 40 CFR [~~Code of Federal Regulations (CFR)~~] §261.4(b)(5), "drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy" are described as wastes that are exempt from federal hazardous waste regulations.

(3) A partial list of wastes associated with oil, gas, and geothermal exploration, development, and production that are considered exempt from hazardous waste regulation under RCRA can be found in EPA's "Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes," 53 FedReg 25,446 (July 6, 1988). A further explanation of the exemption can be found in the "Clarification of the Regulatory Determination for Wastes from the Exploration, Development and Production of Crude Oil, Natural Gas and Geothermal Energy," 58 FedReg 15, 284 (March 22, 1993). The exemption codified at 40 CFR §261.4(b)(5) and discussed in the Regulatory Determination has been, and may continue to be, clarified in subsequent guidance issued by [~~the~~] EPA.

(d) Jurisdiction over waste from specific activities.

(1) Waste from drilling [~~Drilling~~], operation, and plugging of wells associated with the exploration, development, or production of oil, gas, or geothermal resources are under the jurisdiction of RRC. Wells associated with the exploration, development, or production of oil, gas, or geothermal resources include exploratory wells, cathodic protection holes, core holes, oil wells, gas wells, geothermal resource wells, fluid injection wells used for secondary or enhanced recovery of oil or gas, oil and gas waste disposal wells, and injection water source wells. Several types of waste materials can be generated during the drilling, operation, and plugging of these wells. These waste materials include drilling fluids (including water-based and oil-based fluids), cuttings, produced water, produced sand, waste hydrocarbons (including used oil), fracturing fluids, spent acid, workover fluids, treating chemicals (including scale inhibitors, emulsion breakers, paraffin inhibitors, and surfactants), waste cement, filters (including used oil filters), domestic sewage (including waterborne human waste and waste from activities such as bathing and food preparation), and trash (including inert waste, barrels, dope cans, oily rags, mud sacks, and garbage). Generally, these wastes, whether disposed of by [~~discharge,~~] landfill, landfarm [~~land farm~~], evaporation, or injection, are subject to the jurisdiction of [~~the~~] RRC. Wastes from oil, gas, and geothermal exploration activities subject to regulation by [~~the~~] RRC when those wastes are to be processed, treated, or disposed of at a solid waste management facility authorized by [~~the~~] TCEQ under 30 TAC Chapter 330 are, as defined in 30 TAC §330.3[~~(148)~~] (relating to Definitions), "special wastes."

(2) Field treatment of produced fluids is under the jurisdiction of RRC. Oil, gas, and water produced from oil, gas, or geothermal resource wells may be treated in the field in facilities such as separators, skimmers, heater treaters, dehydrators, and sweetening units. Waste that results from the field treatment of oil and gas include waste hydrocarbons (including used oil), produced water, hydrogen sulfide scavengers, dehydration wastes, treating and cleaning chemicals, filters (including used oil filters), asbestos insulation, domestic sewage, and trash are subject to the jurisdiction of [~~the~~] RRC.

(3) Storage of oil.

(A) Tank bottoms and other wastes from the storage of crude oil (whether foreign or domestic) before it enters the refinery are under the jurisdiction of [~~the~~] RRC.

(B) Waste resulting from storage of crude oil at refineries is subject to the jurisdiction of TCEQ. [~~Wastes generated from storage tanks that are part of the refinery and wastes resulting from the wholesale and retail marketing of refined products are subject to the jurisdiction of the TCEQ.~~]

(C) Wastes generated from storage tanks that are part of the refinery and wastes resulting from the wholesale and retail marketing of refined petroleum products are subject to the jurisdiction of TCEQ.

(4) Underground hydrocarbon storage. The disposal of wastes, including saltwater, resulting from the construction, creation, operation, maintenance, closure, or abandonment of an "underground hydrocarbon storage facility" is subject to the jurisdiction of [~~the~~] RRC, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" have the meanings set out in TNRC[~~Texas Natural Resources Code~~], §91.201.

(5) Underground natural gas storage. The disposal of wastes resulting from the construction, operation, or abandonment of an "underground natural gas storage facility" is subject to the jurisdiction of [~~the~~] RRC, provided that the terms "natural gas" and "storage facility" have the meanings set out in TNRC[~~Texas Natural Resources Code~~], §91.173.

(6) Transportation of crude oil or natural gas.

(A) Jurisdiction over pipeline-related activities.

(i) [~~The~~] RRC has jurisdiction over matters related to pipeline safety for pipelines in Texas, as referenced in §8.1 of this title (relating to General Applicability and Standards)

pursuant to Chapter 121 of the Texas Utilities Code and Chapter 117 of the TNRC[~~Texas Natural Resources Code~~].

(ii) [~~The~~] RRC has jurisdiction over spill response and remediation of releases from pipelines transporting crude oil, natural gas, and condensate that originate from exploration and production facilities to the refinery gate.

(iii) [~~The~~] RRC has jurisdiction over waste generated by construction and operation of pipelines used to transport crude oil, natural gas, and condensate on an oil and gas lease, and from exploration and production facilities up to the refinery gate.

(iv) [~~The~~] RRC is responsible for water quality certification issues related to construction and operation of pipelines used to transport crude oil, natural gas, and condensate, on an oil and gas lease, and from exploration and production facilities up to the refinery gate.

(v) [~~The~~] RRC has jurisdiction over waste generated by construction and operation of pipelines transporting carbon dioxide.

(vi) RRC has jurisdiction over waste or spills from the transportation of crude oil by pipeline, regardless of the crude oil source (foreign or domestic) prior to arrival at a refinery.

(vii) RRC also has jurisdiction over waste from the transportation by pipeline of natural gas, including natural gas liquids, prior to the use of the natural gas in any manufacturing process or as a residential or industrial fuel.

(viii) The transportation wastes subject to the jurisdiction of RRC include wastes from pipeline compressor or pressure stations wastes from pipeline hydrostatic pressure tests and other pipeline operations. These wastes include waste hydrocarbons (including used oil), treating and cleaning chemicals, filters (including used oil filters), scraper trap sludge, trash, domestic sewage, wastes contaminated with polychlorinated biphenyls (PCBs) (including transformers, capacitors, ballasts, and

soils), soils contaminated with mercury from leaking mercury meters, asbestos insulation, transite asbestos pipe, and hydrostatic test waters.

[~~(B) Crude oil and natural gas are transported by railcars, tank trucks, barges, tankers, and pipelines. The RRC has jurisdiction over waste from the transportation of crude oil by pipeline, regardless of the crude oil source (foreign or domestic) prior to arrival at a refinery. The RRC also has jurisdiction over waste from the transportation by pipeline of natural gas, including natural gas liquids, prior to the use of the natural gas in any manufacturing process or as a residential or industrial fuel. The transportation wastes subject to the jurisdiction of the RRC include wastes from pipeline compressor or pressure stations and wastes from pipeline hydrostatic pressure tests and other pipeline operations. These wastes include waste hydrocarbons (including used oil), treating and cleaning chemicals, filters (including used oil filters), scraper trap sludge, trash, domestic sewage, wastes contaminated with polychlorinated biphenyls (PCBs) (including transformers, capacitors, ballasts, and soils), soils contaminated with mercury from leaking mercury meters, asbestos insulation, transite pipe, and hydrostatic test waters.~~]

(ix) TCEQ has jurisdiction over waste from transportation of refined petroleum products by pipeline.

(B) TCEQ has jurisdiction over wastes and spills associated with transportation of crude oil and natural gas, including natural gas liquids, by railcar, tank truck, barge, or tanker.

[~~(C) The TCEQ has jurisdiction over waste from transportation of refined products by pipeline.~~]

[~~(D) The TCEQ also has jurisdiction over wastes associated with transportation of crude oil and natural gas, including natural gas liquids, by railcar, tank truck, barge, or tanker.~~]

(7) Reclamation plants.

(A) [~~The~~] RRC has jurisdiction over oil and gas waste [~~wastes~~] from reclamation plants, that process tank bottoms and other hydrocarbon-bearing materials to reclaim oil that can be returned to the production stream [~~that process wastes from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, such as lease tank bottoms~~]. Waste management activities of reclamation plants for other wastes are subject to the jurisdiction of [~~the~~] TCEQ.

(B) [~~The~~] RRC has jurisdiction over the conservation and prevention of waste of crude oil and therefore must approve all movements of crude oil-containing materials to and from reclamation plants. The applicable statute and regulations consist primarily of reporting requirements for accounting purposes.

(8) Refining of oil.

(A) The management of wastes resulting from oil refining operations, including spent caustics, spent catalysts, still bottoms or tars, and American Petroleum Institute (API) separator sludge, is subject to the jurisdiction of [~~the~~] TCEQ. The processing of light ends from the distillation and cracking of crude oil or crude oil products is considered to be a refining operation. The term "refining" does not include the processing of natural gas or natural gas liquids.

(B) [~~The~~] RRC has jurisdiction over refining activities for the conservation and the prevention of waste of crude oil. TNRC §§85.058-062 establish RRC's authority over a crude oil refinery to inquire from time to time whether or not waste exists or is imminent or whether the oil and gas conservation laws are being violated. This authority includes the ability to require record keeping, periodic reporting, and inspections. [~~The RRC requires that all crude oil streams into or out of a refinery be reported for accounting purposes.~~] In addition, [~~the~~] RRC requires that crude oil and crude oil tank bottoms [~~materials recycled and~~] used as a refinery fuel [~~, such as still bottoms or waste crude oil,~~] be reported (see Form R-1, Monthly Report and Operations Statement for Refineries).

(9) Natural gas or natural gas liquids processing plants (including gas fractionation facilities) and pressure maintenance or repressurizing plants. Wastes resulting from activities associated with these facilities include produced water, cooling tower water, sulfur bead, sulfides, spent caustics, sweetening agents, spent catalyst, waste hydrocarbons (including used oil), asbestos insulation, wastes contaminated with PCBs (including transformers, capacitors, ballasts, and soils), treating and cleaning chemicals, filters, trash, domestic sewage, and dehydration materials. These wastes are subject to the jurisdiction of [~~the~~] RRC under TNRC[~~Texas Natural Resources Code~~], §91.101[~~1.101~~]. Disposal of waste from activities associated with natural gas or natural gas liquids processing plants (including gas fractionation facilities), and pressure maintenance or repressurizing plants by injection is subject to the jurisdiction of [~~the~~] RRC under TWC [~~Texas Water Code~~], Chapter 27. However, until delegation of RRCA authority [~~under RCRA~~] to [~~the~~] RRC, [~~the~~] TCEQ has[~~shall have~~] jurisdiction over wastes resulting from these activities that are not exempt from federal hazardous waste regulation under RCRA and that are considered hazardous under applicable federal rules.

(10) Manufacturing processes.

(A) Wastes that result from the use of natural gas, natural gas liquids, or products refined from crude oil in any manufacturing process, such as the production of petrochemicals or plastics, or from the manufacture of carbon black, are industrial wastes subject to the jurisdiction of [~~the~~] TCEQ. The term "manufacturing process" does not include the processing (including fractionation) of natural gas or natural gas liquids at natural gas or natural gas liquids processing plants.

(B) [~~The~~] RRC has jurisdiction under TNRC[~~Texas Natural Resources Code~~], Chapter 87, to regulate the use of natural gas in the production of carbon black.

(C) Biofuels. [~~The~~] TCEQ has jurisdiction over wastes associated with the manufacturing of biofuels and biodiesel. TCEQ Regulatory Guidance Document RG-462 contains additional information regarding biodiesel manufacturing in the state of Texas.

(11) Commercial service company facilities and training facilities.

(A) [~~The~~] TCEQ has jurisdiction over wastes generated at facilities, other than actual exploration, development, or production sites (field sites), where oil and gas industry workers are trained. In addition, [~~the~~] TCEQ has jurisdiction over wastes generated at facilities where materials, processes, and equipment associated with oil and gas industry operations are researched, developed, designed, and manufactured. However, wastes generated from tests of materials, processes, and equipment at field sites are under the jurisdiction of [~~the~~] RRC.

(B) [~~The~~] TCEQ also has jurisdiction over waste generated at commercial service company facilities operated by persons providing equipment, materials, or services (such as drilling and work over rig rental and tank rental; equipment repair; drilling fluid supply; and acidizing, fracturing, and cementing services) to the oil and gas industry. These wastes include the following wastes when they are generated at commercial service company facilities: empty sacks, containers, and drums; drum, tank, and truck rinsate; sandblast media; painting wastes; spent solvents; spilled chemicals; waste motor oil; and unused fracturing and acidizing fluids.

(C) The term "commercial service company facility" does not include a station facility such as a warehouse, pipeyard, or equipment storage facility belonging to an oil and gas operator and used solely for the support of that operator's own activities associated with the exploration, development, or production activities.

(D) Notwithstanding subparagraphs (A) - (C) of this paragraph, [~~the~~] RRC has jurisdiction over disposal of oil and gas wastes, such as waste drilling fluids and NORM-contaminated pipe scale, in volumes greater than the incidental volumes usually received at such facilities, that are managed at commercial service company facilities.

(E) [~~The~~] RRC also has jurisdiction over wastes such as vacuum truck rinsate and tank rinsate generated at facilities operated by oil and gas waste haulers permitted by [~~the~~] RRC pursuant to Chapter 4 of this title (relating to Environmental Protection), specifically §4.193[~~Subchapter A (relating to Oil and Gas Waste Management)~~].

(12) Mobile offshore drilling units (MODUs). MODUs are vessels capable of engaging in drilling operations for exploring or exploiting subsea oil, gas, or mineral resources.

(A) RRC has jurisdiction over wastes generated when a MODU is actively drilling for oil, gas, geothermal resources or actively conducting other activities within RRC's jurisdiction.

(B) TCEQ has jurisdiction over wastes generated when a MODU is being serviced or transported to or from an operational location.

[~~(A) The RRC and, where applicable, the EPA, the U.S. Coast Guard, or the Texas General Land Office (GLO), have jurisdiction over discharges from an MODU when the unit is being used in connection with activities associated with the exploration, development, or production of oil or gas or geothermal resources, except that upon delegation to the TCEQ of NPDES authority for discharges into surface water in the state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described in Texas Water Code, §26.131(a), the TCEQ shall assume RRC's authority under this subsection.~~]

[~~(B) The TCEQ and, where applicable, the EPA, the U.S. Coast Guard, or the GLO, have jurisdiction over discharges from an MODU when the unit is being serviced at a maintenance facility.~~]

[~~(C) Where applicable, the EPA, the U.S. Coast Guard, or the GLO has jurisdiction over discharges from an MODU during transportation from shore to exploration, development or production site, transportation between sites, and transportation to a maintenance facility.~~]

(13) Extraction. Under TWC, §27.036, RRC has jurisdiction over brine mining for the purpose of extracting elements, minerals, mineral ions, salts, or other useful substances, including, but not limited to, lithium, lithium ions, lithium chloride, halogens or halogen salts, from a subsurface formation but not including oil, gas, or any product of oil or gas, as defined by TNRC, §85.001, or fluid oil and gas waste, as defined by TNRC, §122.001.

(14) Certain Injection Wells. RRC has jurisdiction over drilling, completion, operation, workover, and plugging wastes associated with Class II, V, and VI injection wells that are under the RRC's jurisdiction, as defined in subparagraph (b)(2)(C) of this section, and similar wastes from Class III injection wells used for brine mining of subsurface salt formations.

(15) Pits. RRC has jurisdiction over pits used to treat, manage, or store oil and gas waste or other jurisdictional waste, including but not limited to produced water that is treated for beneficial use, prior to discharge into a water in the state or withdrawal for land application. An RRC-authorized pit will continue to be regulated as a pit by RRC even if the operator obtains authority from TCEQ to discharge fluid from the pit.

(e) Interagency activities.

(1) Recycling and pollution prevention.

(A) [~~The~~] TCEQ and [~~the~~] RRC encourage generators to eliminate pollution at the source and recycle whenever possible to avoid disposal of wastes. Questions regarding source reduction and recycling may be directed to the TCEQ External Relations Division, or to [~~the~~] RRC. [~~The~~] TCEQ may require generators to explore source reduction and recycling alternatives prior to authorizing disposal of any waste under the jurisdiction of [~~the~~] RRC at a facility regulated by [~~the~~] TCEQ; similarly, [~~the~~] RRC may explore source reduction and recycling alternatives prior to authorizing disposal of any waste under the jurisdiction of [~~the~~] TCEQ at a facility regulated by [~~the~~] RRC.

(B) The TCEQ External Relations Division and [~~the~~] RRC will coordinate as necessary to maintain a working relationship to enhance the efforts to share information and use resources more efficiently. The TCEQ External Relations Division will make the proper TCEQ personnel aware of the services offered by [~~the~~] RRC, share information with [~~the~~] RRC to maximize services to oil and gas operators, and direct[~~advise~~] oil and gas operators to[~~of~~] RRC [~~services~~]. [~~The~~] RRC will make the proper RRC personnel aware of the services offered by the TCEQ External Relations Division, share information with the TCEQ External Relations Division to maximize services to industrial operators, and direct[~~advise~~] industrial operators to[~~of~~] the TCEQ External Relations Division [~~services~~].

(2) Treatment of wastes under RRC jurisdiction at facilities authorized by [~~the~~] TCEQ under 30 TAC Chapter 334, Subchapter K, (relating to Storage, Treatment, and Reuse Procedures for Petroleum-Substance Contaminated Soil).

(A) Soils contaminated with constituents that are physically and chemically similar to those normally found in soils at leaking underground petroleum storage tanks from generators under the jurisdiction of [~~the~~] RRC are eligible for treatment at TCEQ regulated soil treatment facilities once alternatives for recycling and source reduction have been explored. For the purpose of this provision, soils containing petroleum substance(s) as defined in 30 TAC §334.481 (relating to Definitions) are considered to be similar, but drilling muds, acids, or other chemicals used in oil and gas activities are not considered similar. Generators under the jurisdiction of [~~the~~] RRC must meet the same requirements as generators under the jurisdiction of [~~the~~] TCEQ when sending their petroleum contaminated soils to soil treatment facilities under TCEQ jurisdiction. Those requirements are in 30 TAC §334.496 (relating to Shipping Procedures Applicable to Generators of Petroleum-Substance Waste), except subsection (c) which is not applicable, and 30 TAC §334.497 (relating to Recordkeeping and Reporting Procedures Applicable to Generators). RRC generators with questions on these requirements should contact [~~the~~] TCEQ.

(B) Generators under RRC jurisdiction should also be aware that TCEQ regulated soil treatment facilities are required by 30 TAC §334.499 (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Treatment, or Disposal Facilities) to maintain documentation on the soil sampling and analytical methods, chain-of-custody, and all analytical results for the soil received at the facility and transported off-site or reused on-site.

(C) [~~The~~] RRC must specifically authorize management of contaminated soils under its jurisdiction at facilities authorized by [~~the~~] TCEQ under 30 TAC Chapter 334, Subchapter K (relating to Storage, Treatment, and Reuse Procedures for Petroleum-Substance Contaminated Soil). [~~The~~] RRC may grant such authorizations by rule, or on an individual basis through permits or other written authorizations. Effective December 31, 2026, a special waste authorization pursuant to 16 TAC §4.192 will be required.

(D) All waste, including treated waste, subject to the jurisdiction of [the] RRC and managed at facilities authorized by [~~the~~] TCEQ under 30 TAC Chapter 334, Subchapter K will remain subject to the jurisdiction of [~~the~~] RRC. Such materials will be subject to RRC regulations regarding final reuse, recycling, or disposal.

(E) TCEQ waste codes and registration numbers are not required for management of wastes under the jurisdiction of [~~the~~] RRC at facilities authorized by [~~the~~] TCEQ under 30 TAC Chapter 334, Subchapter K.

(3) Processing, treatment, and disposal of wastes under RRC jurisdiction at facilities authorized by [~~the~~] TCEQ.

(A) As provided in this paragraph, waste materials subject to the jurisdiction of [~~the~~] RRC may be managed at solid waste facilities under the jurisdiction of [~~the~~] TCEQ once alternatives for recycling and source reduction have been explored. [~~The~~] RRC must specifically authorize management of wastes under its jurisdiction at facilities regulated by [~~the~~] TCEQ. [~~The~~] RRC may grant

such authorizations by rule, or on an individual basis through permits or other written authorizations. In addition, except as provided in subparagraph (B) of this paragraph, the concurrence of [~~the~~] TCEQ is required to manage waste under the jurisdiction of RRC as a "special waste" [~~under the jurisdiction of the RRC~~] at a facility regulated by [~~the~~] TCEQ. [~~The~~] TCEQ's concurrence may be subject to specified conditions.

(B) Wastes under the jurisdiction of RRC are authorized, without further RRC approval, to be disposed of at a facility regulated by TCEQ if the facility is permitted or otherwise authorized to accept that particular type of waste [~~A facility under the jurisdiction of the TCEQ may accept, without further individual concurrence, waste under the jurisdiction of the RRC if that facility is permitted or otherwise authorized to accept that particular type of waste~~]. The phrase "that type of waste" does not specifically refer to waste under the jurisdiction of [the] RRC, but rather to the waste's physical and chemical characteristics. Management and disposal of waste under the jurisdiction of [~~the~~] RRC is subject to TCEQ's rules governing both special waste and industrial waste. Waste under RRC's jurisdiction that is subject to the exploration and production (E&P) exemption from classification as hazardous waste at 40 CFR §261.4(b)(5) that is comingled with non-exempt waste and conveyed to a facility under TCEQ jurisdiction shall be classified, handled, and disposed of in compliance with all applicable Subtitle C hazardous waste regulations and TCEQ solid waste management standards as non-exempt waste.

(C) If the TCEQ regulated facility receiving the waste does not have approval to accept the waste included in its permit or other written authorization, individual written concurrences from [~~the~~] TCEQ shall be required to manage wastes under the jurisdiction of [~~the~~] RRC at TCEQ regulated facilities. Recommendations for the management of special wastes associated with the exploration, development, or production of oil, gas, or geothermal resources are found in TCEQ Regulatory Guidance document RG-3. (This is required only if the TCEQ regulated facility receiving the

waste does not have approval to accept the waste included in its permit or other written authorization provided by [~~the~~] TCEQ.) To obtain an individual concurrence, the waste generator must provide to [~~the~~] TCEQ sufficient information to allow the concurrence determination to be made, including the identity of the proposed waste management facility, the process generating the waste, the quantity of waste, and the physical and chemical nature of the waste involved (using process knowledge and/or laboratory analysis as defined in 30 TAC Chapter 335, Subchapter R (relating to Waste Classification)). In obtaining TCEQ approval, generators may use their existing knowledge about the process or materials entering it to characterize their wastes. Material Safety Data Sheets, manufacturer's literature, and other documentation generated in conjunction with a particular process may be used. Process knowledge must be documented and submitted with the request for approval. The request to dispose of this type of waste must be submitted to TCEQ on the appropriate form.

(D) Domestic septage collected from portable toilets at facilities subject to RRC jurisdiction that is not mixed with other waste materials may be managed at a facility permitted by [~~the~~] TCEQ for disposal, incineration, or land application for beneficial use of such domestic septage waste without specific authorization from [~~the~~] TCEQ or [~~the~~] RRC. Waste sludge subject to the jurisdiction of [~~the~~] RRC may not be applied to the land at a facility permitted by [~~the~~] TCEQ for the beneficial use of sewage sludge or water treatment sludge. A TCEQ registered sludge transporter must be used when transporting domestic septage over roadways.

(E) TCEQ waste codes and registration numbers are not required for management of wastes under the jurisdiction of [~~the~~] RRC at facilities under the jurisdiction of [~~the~~] TCEQ. If a receiving facility requires a TCEQ waste code for waste under the jurisdiction of [~~the~~] RRC, a code consisting of the following may be provided:

(i) the sequence number "RRCT";

(ii) the appropriate form code, as specified in 30 TAC Chapter 335, Subchapter R, §335.521, Appendix 3 (relating to Appendices); and

(iii) the waste classification code "H" if the waste is a hazardous oil and gas waste, or "R" if the waste is a nonhazardous oil and gas waste.

(F) If a facility requests or requires a TCEQ waste generator registration number for wastes under the jurisdiction of [~~the~~] RRC, the registration number "XXXRC" may be provided.

(G) Wastes that are under the jurisdiction of [~~the~~] RRC do [~~need~~] not need to be reported to [~~the~~] TCEQ except when sent to a facility authorized by TCEQ. Facilities authorized by TCEQ must report all waste received, consistent with their permit or authorization.

(4) Management of nonhazardous wastes under TCEQ jurisdiction at facilities regulated by [~~the~~] RRC.

(A) Once alternatives for recycling and source reduction have been explored and with prior authorization from RRC, certain nonhazardous wastes subject to the jurisdiction of TCEQ may be managed at a facility regulated by RRC.

(B) Management methods for the waste may include disposal, landtreatment or bioremediation prior to reuse, recycling, or disposal, or reclamation at a crude oil reclamation facility.

(C) TCEQ-jurisdictional nonhazardous wastes that are chemically and physically similar to oil and gas wastes, such as soils, media, debris, sorbent pads, and other clean-up materials, may be managed at an RRC-regulated facility, provided the following conditions are met:

(i) these materials are not contaminated with refined petroleum products, and

(ii) these materials may not be disposed of by injection in a Class II injection well.

(D) The following TCEQ-jurisdictional nonhazardous wastes may be managed at a RRC regulated facility, provided that all other statutory and regulatory requirements are followed:

(i) Tank bottoms from tanks used only for crude oil storage, before crude oil enters the refinery process;

(ii) Unused or reconditioned drilling and completion/workover wastes from commercial service company facilities;

(iii) Used or unused drilling and completion/workover wastes from exploration and production training facilities;

(iv) Used or unused drilling and completion/workover wastes generated at facilities that research, develop, design, or manufacture exploration and production materials, processes, or equipment;

(v) Used or unused drilling and completion wastes, excluding workover wastes, from drilling and completing Class I, III, and V injection wells, unless the applicable injection well permit states otherwise;

(vi) TCEQ-jurisdictional wastes from crude oil or natural gas liquid spill cleanup (e.g., contaminated soils, media, debris, sorbents); and

(vii) Sludges from washout pits at commercial service company facilities.

(E) To obtain an individual authorization from the RRC, the waste generator shall comply with 16 TAC §4.192 (related to Trans-jurisdictional Waste Transfers).

(F) Generators sending RRC-jurisdictional waste to a TCEQ-regulated facility, and RRC-regulated facilities receiving TCEQ-jurisdictional waste are subject to waste reporting requirements in 16 TAC §4.192 (related to Trans-jurisdictional Waste Transfers).

(G) Treated produced water that is used as evaporative cooling water at a facility under TCEQ jurisdiction, may be received for recycling, beneficial use, or disposal at an authorized RRC-regulated facility provided that the waste is chemically and physically similar to oil and gas waste.

(H) Under TWC, §27.0511(g), a TCEQ permit is required for injection of industrial or municipal waste as an injection fluid for enhanced recovery purposes. However, under TWC, §27.0511(h), RRC may authorize a person to use nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals as an injection fluid for enhanced recovery purposes without obtaining a permit from TCEQ. The use or disposal of radioactive material under this subparagraph is subject to the applicable requirements of THSC, Chapter 401.

(I) Under TWC, §27.026, by individual permit, general permit, or rule, TCEQ may designate a Class II disposal well that has an RRC permit as a Class V disposal well authorized to dispose by injection nonhazardous brine from a desalination operation and nonhazardous drinking water treatment residuals under the jurisdiction of TCEQ. The operator of a permitted Class II disposal well seeking a Class V authorization must apply to TCEQ and obtain a Class V authorization prior to disposal of nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals. A permitted Class II disposal well that has obtained a Class V authorization from TCEQ under TWC, §27.026, remains subject to the regulatory requirements of both RRC and TCEQ. Nonhazardous brine from a desalination operation and nonhazardous drinking water treatment residuals to be disposed by injection in a permitted Class II disposal well authorized by TCEQ as a Class V injection well remain subject to the requirements of the THSC, the TWC, and TCEQ's rules. RRC and TCEQ may impose additional requirements or conditions to address the dual injection activity under TWC, §27.026.

[~~(A) Once alternatives for recycling and source reduction have been explored, and with prior authorization from the RRC, the following nonhazardous wastes subject to the jurisdiction of the TCEQ may be disposed of, other than by injection into a Class II well, at a facility regulated by the~~

~~RRC; bioremediated at a facility regulated by the RRC (prior to reuse, recycling, or disposal); or reclaimed at a crude oil reclamation facility regulated by the RRC: nonhazardous wastes that are chemically and physically similar to oil and gas wastes, but excluding soils, media, debris, sorbent pads, and other clean-up materials that are contaminated with refined petroleum products.~~]

[~~(B) To obtain an individual authorization from the RRC, the waste generator must provide the following information, in writing, to the RRC: the identity of the proposed waste management facility, the quantity of waste involved, a hazardous waste determination that addresses the process generating the waste and the physical and chemical nature of the waste, and any other information that the RRC may require. As appropriate, the RRC shall reevaluate any authorization issued pursuant to this paragraph.~~]

[~~(C) Once alternatives for recycling and source reduction have been explored, and subject to the RRC's individual authorization, the following wastes under the jurisdiction of the TCEQ are authorized without further TCEQ approval to be disposed of at a facility regulated by the RRC, bioremediated at a facility regulated by the RRC, or reclaimed at a crude oil reclamation facility regulated by the RRC: nonhazardous bottoms from tanks used only for crude oil storage; unused and/or reconditioned drilling and completion/workover wastes from commercial service company facilities; used and/or unused drilling and completion/workover wastes generated at facilities where workers in the oil and gas exploration, development, and production industry are trained; used and/or unused drilling and completion/workover wastes generated at facilities where materials, processes, and equipment associated with oil and gas exploration, development, and production operations are researched, developed, designed, and manufactured; unless other provisions are made in the underground injection well permit used and/or unused drilling and completion wastes (but not workover wastes) generated in connection with the drilling and completion of Class I, III, and V injection wells; wastes (such as contaminated soils, media, debris, sorbent pads, and other cleanup materials) associated with spills of crude oil and natural

~~gas liquids if such wastes are under the jurisdiction of the TCEQ; and sludges from washout pits at commercial service company facilities~~.]

[~~(D) Under Texas Water Code, §27.0511(g), a TCEQ permit is required for injection of industrial or municipal waste as an injection fluid for enhanced recovery purposes. However, under §27.0511(h), the RRC may authorize a person to use nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals as an injection fluid for enhanced recovery purposes without obtaining a permit from the TCEQ. The use or disposal of radioactive material under this subparagraph is subject to the applicable requirements of Texas Health and Safety Code, Chapter 401.~~]

[~~(E) Under Texas Water Code, §27.026, by individual permit, general permit, or rule, the TCEQ may designate a Class II disposal well that has an RRC permit as a Class V disposal well authorized to dispose by injection nonhazardous brine from a desalination operation and nonhazardous drinking water treatment residuals under the jurisdiction of the TCEQ. The operator of a permitted Class II disposal well seeking a Class V authorization must apply to TCEQ and obtain a Class V authorization prior to disposal of nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals. A permitted Class II disposal well that has obtained a Class V authorization from TCEQ under Texas Water Code, §27.026, remains subject to the regulatory requirements of both the RRC and the TCEQ. Nonhazardous brine from a desalination operation and nonhazardous drinking water treatment residuals to be disposed by injection in a permitted Class II disposal well authorized by TCEQ as a Class V injection well remain subject to the requirements of the Texas Health and Safety Code, the Texas Water Code, and the TCEQ's rules. The RRC and the TCEQ may impose additional requirements or conditions to address the dual injection activity under Texas Water Code, §27.026.~~]

(5) Drilling in landfills. [~~The~~] TCEQ will notify the Oil and Gas Division of [~~the~~] RRC and the landfill owner at the time a drilling application is submitted if an operator proposes to drill a well through a landfill regulated by [~~the~~] TCEQ. [~~The~~] RRC and [~~the~~] TCEQ will cooperate and coordinate

with one another in advising the appropriate parties of measures necessary to reduce the potential for the landfill contents to cause groundwater contamination as a result of landfill disturbance associated with drilling operations. [~~The~~] TCEQ requires prior written approval before drilling of any test borings through previously deposited municipal solid waste under 30 TAC §330.15 (relating to General Prohibitions), and before borings or other penetration of the final cover of a closed municipal solid waste landfill under 30 TAC §330.955 (relating to Miscellaneous). The installation of landfill gas recovery wells for the recovery and beneficial reuse of landfill gas is under the jurisdiction of [~~the~~] TCEQ in accordance with 30 TAC Chapter 330, Subchapter I (relating to Landfill Gas Management) and therefore, TCEQ is not required to notify RRC before landfill gas recovery wells are drilled. Modification of an active or a closed solid waste management unit, corrective action management unit, hazardous waste landfill cell, or industrial waste landfill cell by drilling or penetrating into or through deposited waste may require prior written approval from TCEQ. Such approval may require a new authorization from TCEQ or modification or amendment of an existing TCEQ authorization.

(6) Coordination of actions and cooperative sharing of information.

(A) In the event that a generator or transporter disposes, without proper authorization, of wastes regulated by [~~the~~] TCEQ at a facility under the jurisdiction of[~~permitted by the~~] RRC, [~~the~~] TCEQ is responsible for enforcement actions against the generator or transporter, and [~~the~~] RRC is responsible for enforcement actions against the disposal facility. In the event that a generator or transporter disposes, without proper authorization, of wastes regulated by [~~the~~] RRC at a facility under the jurisdiction of[~~permitted by the~~] TCEQ, [~~the~~] RRC is responsible for enforcement actions against the generator or transporter, and [~~the~~] TCEQ is responsible for enforcement actions against the disposal facility.

(B) [~~The~~] TCEQ and [~~the~~] RRC agree to cooperate with one another by sharing information. Employees of either agency who receive a complaint or discover, in the course of their

official duties, information that indicates a violation of a statute, regulation, order, or permit pertaining to wastes under the jurisdiction of the other agency, will notify the other agency. In addition, to facilitate enforcement actions, each agency will share information in its possession with the other agency if requested by the other agency to do so.

(C) [~~The~~] TCEQ and [~~the~~] RRC agree to work together to allocate[~~at allocating~~] respective responsibilities. To the extent that jurisdiction is indeterminate or has yet to be determined, [~~the~~] TCEQ and [~~the~~] RRC agree to share information and take appropriate investigative steps to assess jurisdiction.

(D) For items not covered by statute or rule, [~~the~~] TCEQ and [~~the~~] RRC will collaborate to determine respective responsibilities for each issue, project, or project type.

(E) The staff of [~~the~~] RRC and [~~the~~] TCEQ shall coordinate as necessary to attempt to resolve any disputes regarding interpretation of this MOU and disputes regarding definitions and terms of art.

(7) Groundwater.

(A) Notice of groundwater contamination. Under TWC [~~Texas Water Code~~], §26.408, effective September 1, 2003, [~~the~~] RRC must submit a written notice to [~~the~~] TCEQ of any documented cases of groundwater contamination that may affect a drinking water well.

(B) Groundwater protection letters. [~~The~~] RRC provides letters of recommendation concerning groundwater protection.

(i) For recommendations related to normal drilling operations, shot holes for seismic surveys, and cathodic protection wells, [~~the~~] RRC provides geologic interpretation identifying fresh water zones, base of usable-quality water (generally less than 3,000 mg/L total dissolved solids, but may include higher levels of total dissolved solids if identified as currently being used or identified by the Texas Water Development Board as a source of water for desalination), and include protection depths

recommended by [~~the~~] RRC. The geological interpretation may include groundwater protection based on potential hydrological connectivity to usable-quality water.

(ii) For recommendations related to injection, [~~the~~] RRC provides geologic interpretation of the base of the underground source of drinking water. The term "underground source of drinking water" is defined in 40 Code of Federal Regulations §146.3 (Federal Register, Volume 46, June 24, 1980).

(8) Emergency and spill response.

(A) [~~The~~] TCEQ and [~~the~~] RRC are members of the state's Emergency Management Council. [~~The~~] TCEQ is the state's primary agency for emergency support during response to hazardous materials and oil spill incidents. [~~The~~] TCEQ is responsible for state-level coordination of assets and services, and will identify and coordinate staffing requirements appropriate to the incident to include investigative assignments for the primary and support agencies.

(B) Contaminated soil and other wastes that result from a spill must be managed in accordance with the governing statutes and regulations adopted by the agency responsible for the activity that resulted in the spill. Coordination of issues of spill notification, prevention, and response shall be addressed in the State of Texas Oil and Hazardous Substance Spill Contingency Plan and may be addressed further in a separate Memorandum of Understanding among these agencies and other appropriate state agencies.

(C) The agency (TCEQ or RRC) that has jurisdiction over the activity that resulted in the spill incident will be responsible for measures necessary to monitor, document, and remediate the incident.

(i) [~~The~~] TCEQ has jurisdiction over certain inland oil spills, all hazardous-substance spills, and spills of other substances that may cause pollution.

(ii) [~~The~~] RRC has jurisdiction over spills [~~or discharges~~] from activities associated with the exploration, development, or production of crude oil, gas, and geothermal resources, and spills[~~discharges~~] from brine mining or surface mining.

(D) If TCEQ or RRC field personnel receive spill notifications or reports documenting improperly managed waste or contaminated environmental media resulting from a spill or discharge that is under the jurisdiction of the other agency, they shall refer the issue to the other agency. The agency that has jurisdiction over the activity that resulted in the improperly managed waste, spill, discharge, or contaminated environmental media will be responsible for measures necessary to monitor, document, and remediate the incident.

[~~(9) Anthropogenic carbon dioxide storage. In determining the proper permitting agency in regard to a particular permit application for a carbon dioxide geologic storage project, the TCEQ and the RRC will coordinate by any appropriate means to review proposed locations, geologic settings, reservoir data, and other jurisdictional criteria specified in Texas Water Code, §27.041~~.]

(f) Radioactive material.

(1) Radioactive substances. Under the THSC [~~Texas Health and Safety Code~~], §401.011, [~~the~~] TCEQ has jurisdiction to regulate and license:

(A) the disposal of radioactive substances;

(B) the processing or storage of low-level radioactive waste or NORM waste from other persons, except oil and gas NORM waste;

(C) the recovery or processing of source material;

(D) the processing of by-product material as defined by THSC [~~Texas Health and Safety Code~~], §401.003(3)(B); and

(E) sites for the disposal of low-level radioactive waste, by-product material, or NORM waste, except for oil and gas NORM waste regulated by RRC.

(2) NORM waste.

(A) Under THSC [~~Texas Health and Safety Code~~], §401.415, [~~the~~] RRC has jurisdiction over the disposal of NORM waste that constitutes, is contained in, or has contaminated oil and gas waste. This waste material is called "oil and gas NORM waste." Oil and gas NORM waste may be generated in connection with the exploration, development, or production of oil or gas.

(B) Under THSC [~~Texas Health and Safety Code~~], §401.412, [~~the~~] TCEQ has jurisdiction over the disposal of NORM that is not oil and gas NORM waste.

(C) The term "disposal" does not include receipt, possession, use, processing, transfer, transport, storage, or commercial distribution of radioactive materials, including NORM. These non-disposal activities are under the jurisdiction of the Texas Department of State Health Services under THSC [~~Texas Health and Safety Code~~], §401.011(a).

(3) Drinking water residuals. A person licensed for the commercial disposal of NORM waste from public water systems may dispose of NORM waste only by injection into a Class I injection well permitted under 30 TAC Chapter 331 (relating to Underground Injection Control) that is specifically permitted for the disposal of NORM waste.

(4) Management of radioactive tracer material.

(A) Radioactive tracer material is subject to the definition of low-level radioactive waste under THSC [~~Texas Health and Safety Code~~], §401.004, and must be handled and disposed of in accordance with the rules of [~~the~~] TCEQ and the Department of State Health Services.

(B) Exemption. Under THSC [~~Texas Health and Safety Code~~], §401.106, [~~the~~] TCEQ may grant an exemption by rule from a licensing requirement if [~~the~~] TCEQ finds that the exemption will not constitute a significant risk to the public health and safety and the environment.

(5) Coordination with the Texas Radiation Advisory Board. [~~The~~] RRC and [~~the~~] TCEQ will consider recommendations and advice provided by the Texas Radiation Advisory Board (TRAB) that

concern either agency's policies or programs related to the development, use, or regulation of a source of radiation. Both agencies will provide written response to the recommendations or advice provided by TRAB [~~the advisory board~~].

(6) Uranium exploration and mining.

(A) Under TNRC[~~Texas Natural Resources Code~~], Chapter 131, [~~the~~] RRC has jurisdiction over uranium exploration activities.

(B) Under TNRC[~~Texas Natural Resources Code~~], Chapter 131, [~~the~~] RRC has jurisdiction over uranium mining, except for in situ uranium recovery processes.

(C) Under TWC [~~Texas Water Code~~], §27.0513, [~~the~~] TCEQ has jurisdiction over injection wells used for uranium mining.

(D) Under THSC [~~Texas Health and Safety Code~~], §401.2625, [~~the~~] TCEQ has jurisdiction over the licensing of source material recovery and processing or for storage, processing, or disposal of by-product material.

(g) Effective date. This Memorandum of Understanding, as of its February 15, 2027 [~~July 15, 2020~~], effective date, shall supersede the prior Memorandum of Understanding among the agencies, dated July 1, 2025 [~~May 1, 2012~~].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on November 17, 2026.

Filed with the Office of the Secretary of State on November 17, 2026.

Betsy Peticolas
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Railroad Commission of Texas